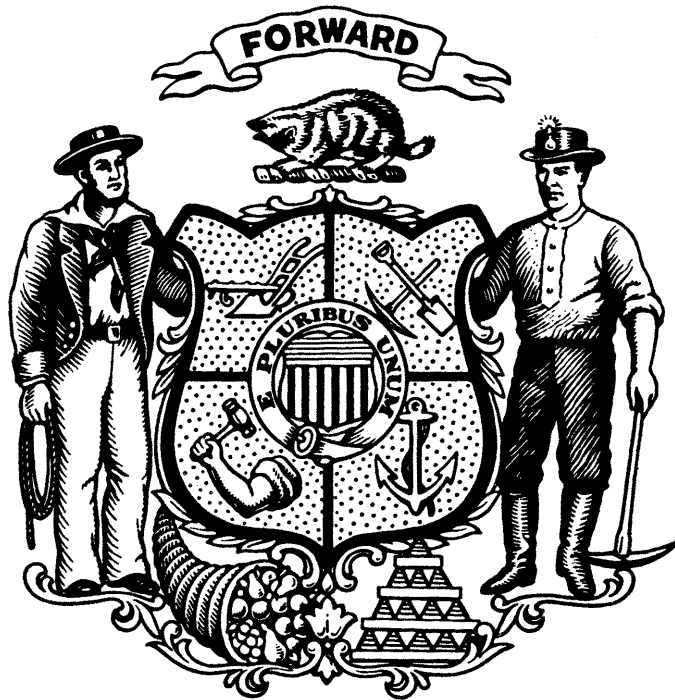


TITLE IV-E ELIGIBILITY AND REIMBURSABILITY POLICY MANUAL



State of Wisconsin
Department of Health and Family Services

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TITLE IV-E ELIGIBILITY AND REIMBURSABILITY POLICY MANUAL

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TITLE IV-E ELIGIBILITY AND REIMBURSABILITY POLICY MANUAL

A. MANUAL EFFECTIVE DATE

The policy stated in this Title IV-E Eligibility and Reimbursability manual is effective June 6, 1980, the date on which the Child Welfare and Adoption Assistance Act (P.L. 96-272) was passed.

(Note: The reasonable efforts requirement was not effective until October 1, 1983, and for-profit child care institutions and group homes were not reimbursable prior to August 15, 1996.)

B. ELIGIBILITY AND REIMBURSABILITY CRITERIA: AN OVERVIEW

Title IV-E benefits are an individual entitlement for qualified children in out-of-home care. For these children, the federal government shares in the cost of:

- maintaining the child in out-of-home care (includes the room/board and other supervision costs for licensed foster parents, child care institutions, shelter care, and group homes);
- staff and administrative costs which are incurred when working with the child, the child's family, and the care provider (the IV-E program also reimburses such costs for children not placed in out-of-home care who are determined by the Random Moment Time Study (RMTS) process to be “candidates for out-of-home care” by virtue of being at risk of placement); and
- the costs of training the staff who work with the child, including foster parents, or those who administer the foster care system for the child.

There are two major categories within the Title IV-E program: Eligibility and Reimbursability.

Eligibility is determined on a one-time basis, which is generally when the child enters out-of-home care. Occasionally, initial eligibility is delayed for up to six months from the placement of the child.

In these circumstances, eligibility is delayed until a court order is obtained which includes language that “continuation in the home would be contrary to the welfare” of the child or that the placement is in the “best interest” of the child, or words to that effect. Once established, a child's initial eligibility status continues as long as the child remains under the care and responsibility of the agency. A child who is **“TV-E eligible”** has the administrative and training costs associated with the child reimbursed by the IV-E program.

A child who is IV-E eligible during any part of a month, is eligible for the entire month. If initial eligibility is not delayed, use the date of placement as the effective date of eligibility. If initial

eligibility is delayed because there is not “contrary to the welfare” language in the court order, the effective date is the first day of the month in which all of the eligibility criteria are met.

There are only two instances when a IV-E eligible child under the continuous legal responsibility of the agency loses eligibility:

- when the youth reaches the age limit for the program; and
- when the child came into care as the result of a Voluntary Placement Agreement and no court order is acquired (within 180 days after the signature date of the agreement) which states that continued placement is in the best interest of the child, or words to that effect.

Reimbursability, on the other hand, is determined on a monthly basis. The child must be determined eligible in order to be reimbursable. A child may lose and regain reimbursability on a frequent basis depending on changes in the circumstances of the placement, court language, deprivation, continuing legal responsibility, or need (income and assets of the child). The loss of reimbursability does not permanently deprive the child of future reimbursability. A child who is “**IV-E reimbursable**” also has the room and board maintenance costs associated with the child reimbursed by the IV-E program. A child who is IV-E eligible but does not meet the criteria for reimbursability is “**IV-E eligible/not reimbursable**”.

C. IV-E ELIGIBILITY CRITERIA

The following criteria must be met for a child to be IV-E eligible:

1. LEGAL STATUS

a. COURT ORDER - CFS-201 (Question 4)

The initial court order is an order removing the child from the home and placing responsibility for the care of the child with a public agency. **For a child to be IV-E eligible, this initial court order, or a subsequent court order dated within six months after the removal of the child, must include a statement that continuation in the home would be “contrary to the welfare” of the child or that the placement is in the “best interest” of the child, or words to that effect.** (Oregon, DAB No. 1586, 1996, Chapters 48 and 49, Wisconsin Statutes)

A child is occasionally adjudicated as a delinquent and placed in an out-of-home facility pursuant to a delinquent court order. In this instance, a child can be determined IV-E eligible if the initial court order or a subsequent court order dated within six months of the removal of the child includes any of the following statements: “contrary to the welfare” or “best interest” or “the child is a danger to

the public and in need of restrictive custodial treatment” or words to that effect.

This “in need of treatment” statement is equivalent to continuation in the home would be “contrary to the welfare” of the child or the placement is in the “best interest” of the child. (Section 48.34, Wisc. Stats.)

Since IV-E eligibility cannot begin until this language is obtained, the agency should ensure that the court order authorizing the removal of the child has the required language.

b. VOLUNTARY PLACEMENT AGREEMENT - CFS-201 (Question 5-6)

A Voluntary Placement Agreement (VPA) is a signed written agreement between a public agency and the parent(s) or the legal guardian(s) of the child which is binding on the parties. It specifies the legal status of the child and the rights and obligations of the parents or legal guardians and the agency while the child is in placement.

A Voluntary Placement Agreement may not exceed 180 days without a judicial determination (court order) containing a statement that the placement is in the “best interest” of the child or “continuation in the home would be contrary to the welfare of the child”. **If there is not a judicial determination with such legal language by the 181st day, the child is IV-E eligible and reimbursable for the first 180 days of the signed VPA, if all other IV-E eligibility criteria are met. On the 181st day, the child is no longer IV-E eligible and can never be eligible for the remainder of this episode of out-of-home care.**

c. COURT-RELATED IV-E EFFECTIVE DATE

Court-related IV-E effective dates are determined by utilizing the signature date on the relevant court order. When the signature date on the court order is later than the court hearing date, an important phrase to include in the court order is **Nunc Pro Tunc**, with a reference to the court hearing date or a statement such as “signed this date, but effective on mm/dd/yy”. This allows the court order to be effective on the date of the court order.

If the start date of the IV-E eligibility is delayed because “contrary to the welfare/best interest” language is not obtained until after the temporary custody order, IV-E eligibility begins on the first day of the month of the court order containing the appropriate language.

2. AFDC RELATEDNESS

In the eligibility month (defined in the next paragraph), the child must have had a relatedness to the Aid to Families with Dependent Children (AFDC) Program authorized under Title IV, Part A, of the Social Security Act **as the program was in effect in Wisconsin on July 16, 1996.**

IN ALL REFERENCES TO AFDC ELIGIBILITY, THE ELIGIBILITY OF THE CHILD IS BASED ON THE STATE PLAN IN EFFECT ON JULY 16, 1996.

a. **ELIGIBILITY MONTH** - CFS-201 (Question 7a-d)

The eligibility month is the month in which the initiation of court proceedings which led to the removal of the child occurred. Examples of the initiation of court proceedings are typically a signed VPA, a petition, and a temporary physical custody request.

It is important to note that the date the child enters out-of-home care does not necessarily define the eligibility month. In the instance of court-ordered removals, the date a child was legally removed or was placed in out-of-home care as the result of a court order may be different than the date of the actual petition or temporary physical custody request by days, weeks, or even months. As stated above, it is the date of the petition or temporary physical custody request, not the date of the legal removal or placement, which defines the eligibility month.

Many times a public agency files a petition which results in an order granting the agency responsibility for supervision which allows a child to remain in his/her own home. If, at a later time, the agency wants to remove the child from the home, either a voluntary placement agreement or an order authorizing the removal of the child must be obtained. If removal is via a court order, the order authorizing the removal, or a subsequent court order within six months after placement, must contain the judicial determination “contrary to the welfare” or “best interest” in order for the child to be IV-E eligible, if all other IV-E eligibility criteria are met. In this instance, the eligibility month is the month that the voluntary placement agreement was signed or the month the petition or motion was filed resulting in the order that authorized the child's removal from the home.

In some instances, an agency places a child who has been in out-of-home care back into the parental home for a **trial visit**. If the child's “trial visit” lasts six (6) months or less, an initial determination need not be completed when the child is returned to out-of-home care. If IV-E eligible prior to the trial visit, the child

retains IV-E eligibility and is IV-E reimbursable if all IV-E reimbursability criteria are met upon return to out-of-home care. If a court order is obtained for the child's return to out-of-home care, it need not contain the "contrary to the welfare" or "reasonable efforts" judicial determination for IV-E reimbursability to begin since these criteria have been satisfied during the prior out-of-home care stay.

If the return to the parental home continues for more than six (6) months, it is no longer considered a trial visit. If the child returns to out-of-home care after such an extended stay, a new initial IV-E determination must be completed based upon the new eligibility month with a new court order.

b. AFDC-RELATEDNESS TEST- CFS-201(Question 7a-d)/CFS-205

The Medical Assistance (MA) program has been revised by Welfare Reform to ensure individuals who would have been categorically eligible for MA due to receipt of AFDC can continue to be determined MA eligible. This revision also maintained a process for determining AFDC-Relatedness for Title IV-E purposes.

The new "AFDC-MA" Medical Assistance eligibility status code was established to identify those recipients who are MA eligible because they met the Wisconsin AFDC program requirements in existence as of July 16, 1996 (see BWI Operations Memo 97-89). Prior to termination of the AFDC program, an inquiry into CARES or EDS determined if the child was in receipt of AFDC prior to removal.

With the establishment of the AFDC-MA code, an inquiry should be made into CARES or EDS to determine if the child was in receipt of MA due to AFDC-MA (in CARES, identified as MA-R or MA-U; in EDS, identified as 31, 32, 65, 79, UH, UR, WH, WN, WU) to satisfy the AFDC-Relatedness test for Title IV-E eligibility.

In addition, a child may meet the IV-E AFDC-MA or AFDC-MA Related requirement, if they are identified as AFDC-MA Related Categorically Needy (in CARES, identified as MAO-R or MAO-U; in EDS, identified as 38, 80, 95, a3, A5, M1, UA).

A child meets the AFDC relatedness (**using the AFDC plan in effect on July 16, 1996**) if one of the following three conditions is met:

- The child was in receipt of AFDC-MA (or was AFDC-MA Related) in the eligibility month;

- The child would have received AFDC-MA (or was AFDC-MA Related) in the eligibility month if an application had been made; or
- The child lived with an AFDC-MA specified relative **within any of the six months prior to the eligibility month** and received AFDC-MA (or was AFDC-MA Related) or would have received AFDC-MA (or AFDC-MA Related) had an application been made.

An example which does not directly fit any one of the three AFDC tests is a child receiving SSI who is removed from a family whose primary income is the child's SSI benefits and the remaining family members' Temporary Assistance for Needy Families (TANF) benefits. If the family members receive MA benefits under reason code AFDC-MA or AFDC-MA Related, the family is an "AFDC family under the July 96 AFDC State Plan"; thus the child does meet the AFDC relatedness test for IV-E because he/she was removed from an "AFDC" household.

For Title IV-E purposes, the criteria which define AFDC eligibility (or hypothetical AFDC eligibility) are the following:

- LIVING WITH A SPECIFIED RELATIVE-CFS-201(Question 7c)
- DEPRIVATION-CFS-201(Question 7d)/CFS-201A(Question 1a-c)
- NEED-INCOME AND ASSETS-CFS-201(Question 7a-d)/CFS-201A(Question 7a-b)/CFS-205
- AGE-CFS-201A(Question 5)/CFS-201(Question 1)
- CITIZENSHIP-CFS-201(Question 3)/CFS-205(Question 1)

See Appendix A for detailed criteria definitions.

c. **REMOVAL ISSUES**

REMOVAL HOME

If a child is physically removed from a home, the relationship between the caretaker and the child must be examined. The home is considered the "removal home" if the caretaker in the home exercised responsibility for care and control of the child immediately prior to the removal. For instance, if the parents dropped off a child at the child's grandmother's home, it must be determined whether the child's responsibility and care were given to the grandmother or if the grandmother

was only babysitting the child. If the stay with grandmother was very short, was it the intent of the parent for the grandmother to provide responsibility and care for the child? If so, the removal home is the grandmother's.

If a child is not physically removed from the home of his/her parents or specified relative but removed from a non-relative or abandoned at the hospital, the child's living arrangements in the six months prior to the petition or voluntary placement agreement must be considered to determine the "removal home". If the child lived with a parent or other specified relative anytime during these six months, the removal home is that of the parent or specified relative. For example, a child is physically removed from a neighbor's home. Two months prior to the removal, he lived with his mother who was receiving AFDC-MA for the child. His mother's home is then considered the "removal home". In this example, the third AFDC relatedness test mentioned above would apply.

If the child lived with two or more specified relatives, including the parents, the AFDC-MA status of the child in each of these homes is considered and if the child was AFDC-MA (or was eligible in any one of these homes, the child meets the AFDC relatedness test.

NON-PHYSICAL REMOVAL

As noted above, if the parent leaves a child with a relative for the responsibility and care of the child, the child's home has been shifted to the home of the relative. If the agency does not remove the child after legal responsibility is given to the agency through a voluntary placement agreement or a judicial determination, a close examination must be made of whether physical removal has taken place as required by IV-E regulations.

If the parent left the child with the relative within six months prior to the court order or voluntary placement agreement, physical removal is considered to have occurred from the parent's home. The parent's home is then used when considering AFDC relatedness (New York, DAB No. 1485, 1996).

d. KINSHIP CARE AND SHELTER CARE

KINSHIP CARE

If a child comes under the legal responsibility of the agency and is initially placed with an unlicensed relative under the Kinship Care program, collect the necessary eligibility information (court orders, parental income, etc.) and complete the CFS-201 form. Since the child is not entered into the child tracking system as an out-of-home care case, a IV-E eligibility status code cannot be entered. If the relative's

home becomes licensed, or if the child is later placed into a regular foster care or residential placement, utilize the initial determination information to formally complete the initial IV-E determination and complete a CFS-201A redetermination form to document the IV-E eligibility and reimbursability of the child.

SHELTER CARE

Since shelter placement stays are also not entered into the child tracking system as an out-of-home care placement, the child's IV-E eligibility/reimbursability status can not be entered into the system. If the child's shelter care placement, which is typically short-term, is the first placement after the county assumes legal responsibility of the child, it is reasonable to wait until after the shelter care placement to determine if a IV-E eligibility determination must be made. If the child returns home from the shelter, no IV-E determination is necessary. If the child is placed into a regular foster care or residential placement, an initial IV-E determination must be completed using the date of the shelter care placement and CFS-201A redetermination form completed with an effective date of the placement after the shelter care.

D. IV-E REIMBURSABILITY CRITERIA

Once initial eligibility is established, a determination must be made for every month that a child is in out-of-home care to determine whether the child's care is reimbursable. After the initial IV-E determination, a **“re-determination”** should be done every twelve months to examine the IV-E criteria for the prior twelve months.

A set of conditions must be met for out-of-home maintenance payments (placement, child care due to foster parent employment, transportation, and any other cost associated with the daily supervision of the child) to be reimbursable. These conditions may vary from month to month. Non-reimbursability in any one month does not affect IV-E eligibility, nor does it mean that reimbursability cannot be established for the following months.

If a child had earlier been IV-E eligible/not reimbursable, but because of a IV-E criterion change becomes IV-E reimbursable for one day of a month, the child is reimbursable for the entire month. For example, if there is a judicial determination including “reasonable efforts” language during the middle of a month, and if all other IV-E reimbursability criteria are met, the child is reimbursable for the entire month. The only exception is placement in a non-reimbursable placement. A child placed in a reimbursable placement for part of a month but moved to a non-reimbursable placement for the remainder of the month is non-reimbursable during his/her stay in the non-reimbursable facility. There are six reimbursability criteria:

- Continuing legal responsibility;
- Court determination of "reasonable efforts" for children removed as the result of a court order;
- Reimbursable placement;
- Need - income and assets;
- Consideration of SSI benefits; and
- Deprivation.

1. CONTINUING LEGAL RESPONSIBILITY - CFS-201(Question 4-6)/CFS-201A(Question 2-4)

There must be a court order that maintains the agency's legal responsibility for the placement of the child (legal responsibility for the placement of the child does not require legal custody of the child). The child becomes reimbursable (assuming the following criteria have also been met) from the signature date of the court order, unless the order retroactively establishes the agency's legal responsibility.

2. REASONABLE EFFORTS - CFS-201(Question 8)/CFS-201A (Question 3)

If a child is removed pursuant to a court order and **not** a voluntary placement agreement, a judge must rule in a court order that the agency has in fact made reasonable efforts. There are three possible rulings from a judge which meet the IV-E requirement:

- That reasonable efforts were made prior to the placement of the child to prevent the placement;
- That reasonable efforts were not possible to prevent the placement; or
- That reasonable efforts are being made to return the child to his or her home or to achieve a stable placement.

A court order signifying any one of these outcomes meets the reasonable efforts requirement which allows maintenance payments to be claimed.

The following is a discussion of each of the three possible rulings which meet the reasonable efforts criterion.

REASONABLE EFFORTS TO PREVENT

The first reasonable efforts statement is applicable in those instances where the child was known to be at risk prior to a petition for the care of the child. In effect, the agency knew the child and had some opportunity to work with the family to prevent the removal of the child. If the agency did attempt to provide services to reduce the risk to the child or to improve the family situation in order to eliminate the need to remove the child, the intent of the law has been met. However, the letter of the law requires that the court review the agency action and come to the conclusion that the agency did make a reasonable effort. If the court determines this to be the case, it must so state in a court order or be documented in court transcripts. Without such a finding stated in a court order, the reasonable efforts requirement is not met and the child is not IV-E reimbursable.

REASONABLE EFFORTS WERE NOT POSSIBLE

The second reasonable efforts statement is applicable primarily in emergency situations. In those instances where children must be removed from the home because of an immediate danger, the agency may not have had an opportunity to provide preventive services. If such was the case and the judge rules in a court order that reasonable efforts were not possible, the reasonable efforts criterion has been met.

REASONABLE EFFORTS TO RETURN THE CHILD HOME OR FIND ANOTHER PERMANENT HOME

The third reasonable efforts statement pertains to a situation when the judge either did not rule on the agency's reasonable efforts to prevent the placement, or ruled that the agency failed to make reasonable efforts prior to placing the child. In this instance, if the agency is currently providing services to reunite the family and child or the agency is attempting to find an alternative permanent placement, the agency may ask the court to determine that reasonable efforts are being made. If the court so finds in a court order, the reasonable efforts criterion is met and the child becomes IV-E reimbursable from the first day of month of the signed court order.

In conclusion, once the reasonable efforts statement is acquired, there is no further action necessary to meet this criterion for ongoing IV-E reimbursability. The only exception is if the court rules in a subsequent court order that the agency is no longer making reasonable efforts. In this instance, the child's maintenance costs would be non-reimbursable until a subsequent court order is issued containing the reasonable efforts language.

3. REIMBURSABLE FACILITY - CFS-201(Question 9) and CFS-201A (Question 8)

A Title IV-E reimbursable placement is the fourth criterion. There are four types of providers which meet the law's definition of a reimbursable facility:

- A licensed foster or treatment foster home;
- A private group home, child care facility, or shelter care facility licensed by the state or county;
- A public child care group home or child care facility licensed for no more than twenty-five (25) children (no facilities in Wisconsin at this time); and
- A licensed relative foster home.

Payments for detention facilities, medical facilities, forestry camps, training schools, foster homes where payments are made through a for-profit child placing or child care agency, and secure, locked facilities primarily for delinquent children are not reimbursable facilities. Payments to foster homes and institutions associated with a for-profit child placing or child care agency are reimbursable if a public agency makes the room and board payment directly to the foster home or institution (PA-97-01).

4. NEED -- INCOME AND ASSETS - CFS-205(Question 2, 3)/CFS-201A (Question 7a-b)

To maintain IV-E reimbursability, the child must have a financial need, in AFDC terms. Need has two elements. First, the income available to the child must be less than the out-of-home care costs for the child. Available income includes all forms of income the child receives, as treated in the AFDC program in effect on July 16, 1996. All unearned income is considered available to the child, while earned income is only partially available, since AFDC allows disregards for work expenses and for earnings of employed students.

The cost of maintaining the child is the amount the agency is paying for the child's out-of-home care placement. "Supplemental" or "exceptional" costs added to the basic maintenance payment are included in the above mentioned calculation for children in foster care but only the placement related costs are included for children in a child care institution or group home (each facility has a IV-E percentage published by the Special Services and Financial Statements Section of the Bureau of Fiscal Services). In any month where the child's income after deductions exceeds this amount, the child is not

IV-E reimbursable.

The second element of need is a child's assets. If a child's assets exceed \$999.99 in any month, the child is not IV-E reimbursable.

In summary, it is only the child's income and assets which are considered when determining reimbursability. The current income and resources of the child's parents are irrelevant unless the parents are actually contributing funds to the agency for the care of the child. When the parents are contributing toward the care of the child, the contribution is considered as the unearned income of the child and counted in the need determination.

5. CONSIDERATION OF SSI BENEFITS - CFS-201(Question 10)/CFS-201A(Question 6)

A IV-E eligible child receiving SSI benefits generally has his or her need met from the receipt of the SSI benefits if the child is placed in out-of-home care. Due to the receipt of SSI, the child would be IV-E eligible/not reimbursable.

A child placed in a high cost placement such as a institution or group home might receive more from IV-E than from remaining on SSI. Therefore, the agency should consider making the child IV-E reimbursable and suspending the SSI benefits. When considering this alternative, the IV-E reimbursement for these facilities is unique to each facility since each facility has a IV-E percentage established by the Bureau of Fiscal Services, as noted above. For example, if this percentage is 70%, then 70% of the residential payment multiplied by 59% (the percent of the federal share) is the amount of the IV-E reimbursement to compare to the SSI benefit.

6. DEPRIVATION - CFS-201(Question 7d)/CFS-201A(Question 1a-c)

A child in out-of-home care must continue to be deprived of the care of one or both parents in order to maintain IV-E reimbursability. This means that if the child were to be returned to *the home from which he/she was removed*, deprivation would exist in that home. As with the initial eligibility determination, this means that one or both birth or adoptive parents is deceased, absent from the home, disabled, or the principal wage-earning parent is unemployed.

APPENDIX I

WISCONSIN AFDC POLICY AS OF JULY 16, 1996

A. LIVING WITH A SPECIFIED RELATIVE - CFS-201(Question 7c)

The child must have lived with a specified relative during the eligibility month, or at anytime six months prior to the eligibility month. Specified relatives are:

- Father, mother, brother, sister, uncle, aunt, first cousin, child of a first cousin, nephew, or niece;
- Relationships to persons listed above of preceding generations denoted by prefixes of grand, great or great-great are within this definition;
- The parental relationship can be biological, adoptive or step. The sibling and grandparent relationships can also be biological, adoptive or step;
- Spouses of any persons named in the above groups are within the scope of these provisions, even though the marriage is terminated by death or divorce.

B. AFDC GROUP - CFS-205(Question 1, 4a-b))

The AFDC group represents the grouping of persons from the removal home whose income and resources are to be considered in determining need.

- If the child was physically removed from the parent's home, the AFDC group would include:
 - Birth or Adoptive
 - Eligible child
 - Birth, adoptive, half-siblings who are themselves dependent children

NOTE: DEEMED INCOME - If the child was removed from a home in which his or her stepparent resides, do not include the stepparent, or any of the stepparent's children from a previous relationship in the AFDC group. Consider the stepparent and any of his or her children from a previous relationship their own AFDC group and complete a **Deemed Stepparent Income Worksheet**. The purpose of deeming a stepparent's income, is to include only the portion of the stepparent's income that is in excess of the need standard for the stepparent and any of his or her dependent children, towards the income of the child in custody. Only the income that exceeds the need standard for the stepparent's AFDC group is considered to be available to meet the needs of the child in custody.

- If the child was physically removed from the home of a specified relative other than the parent(s), the AFDC group would include:
 - Eligible child only
 - Any siblings of the eligible child living in the same household
- Household members receiving SSI benefits are not counted as a member of the AFDC group, nor are the SSI benefits or any other income or assets of the SSI recipient counted.

C. DEPRIVATION - CFS-201(Question 7d)/CFS-201A(Question 1a-c)

A child must be "dependent" according to s.49.19 (1), Stats., that is, a child who "has been deprived of parental support or care by reason of the death, continued absence from home, other than absence occasioned solely by reason of the performance of active duty in the uniformed services of the United States, unemployment, or incapacity of a parent..." **Marriage of the parents is not a factor in determining deprivation.** If a child is living with both parents, but the parents are unmarried, deprivation for the reason of absence of one of his/her parents does not exist.

Deprivation must exist in the removal home in the month the petition was filed or in the month the voluntary placement agreement was signed. If the child was not removed from the home of a specified relative, but lived with a specified relative in any one of the six months preceding the eligibility month, deprivation must have existed in that home.

The following situations are within the definition of deprivation of parental support or care:

- Abandonment
- Separation (not living in the same house)
- Divorce (not living in the same house)
- Institutionalization/Incarceration
- Death
- Disability/Incapacitation: The parent must be determined to be disabled or incapacitated for at least 30 days by means of competent medical testimony. If the parent(s) is receiving SSI or OASDI (Social Security) payments because of disability or blindness, the incapacitation requirement is met and verification of the SSI or OASDI payments shall be included in the record (such as a copy of an award letter, copy of a check, etc.)

If the parent claims to be disabled or incapacitated, the social worker should consult the AFDC policy handbook or contact the local Economic Support unit for instructions on how to establish a disability or incapacity finding.

- Parental Rights Terminated: If there has been a termination of parental rights (TPR), the child is deprived from the date of the TPR. However, the existence of a TPR at a redetermination does not replace the requirement for deprivation at the time the petition is filed or the voluntary placement agreement is signed.
- Unemployment of the principal wage earner: The social worker should consult the AFDC policy handbook or contact the local Economic Support unit for instructions on establishing deprivation based on unemployment.

Deprivation must continue to exist in the removal home in order for the child to continue as IV-E reimbursable. This factor must be examined at each redetermination.

D. NEED - CFS-201(Question 11a-b)/CFS-201A(Question 7a-b)/CFS-205(Question 2-3)

The income and assets available to the child must be less than Wisconsin's standards for AFDC eligibility. If the child was living with either or both parents, the parent's income and assets are considered in this determination along with the income and assets of the child and any minor siblings. If the removal home was that of a specified relative other than the parent, only the income and assets of the child (and any minor siblings living with the child) are considered.

Income for AFDC purposes includes:

- Earned Income
 - Bonuses
 - Earned income tax credit (EITC)
 - In-kind income for work (e.g. shelter received for work)
 - Longevity pay
 - Wages, salaries, tips (before taxes)
 - Work-study
 - Self-employment/farm income
 - Severance pay
- Unearned Income
 - Armed forces allotment
 - Child support/alimony

- Disability insurance (sick pay)
- Dividend payment
- General Relief
- Income for continuation payments
- Income from relatives, income **deemed** from relatives/stepparents
- Inheritance pay
- Interest, money payments
- Money from churches, charitable organizations, friends, lodges, or unions
- Retirement or Pension (union, private or government)
- Social Security Benefits
- Striker's Benefits
- Unemployment Compensation
- Veteran's Benefits
- Worker's Compensation

Certain types of income are exempt (not counted) in determining eligibility for AFDC.

- Exempt Income
 - Supplemental Security Income (SSI)
 - Women, Infants, and Children payments (WIC)
 - Loans or grants administered by the U.S. Commissioner of Education
 - Foster Care payments
 - Adoption Assistance payments
 - JTPA earned income of full-time students employed full-time or part-time students employed less than full-time
 - JTPA unearned income

Income must be expressed in monthly dollars.

- Bi-weekly (paid every other week) income must be multiplied by 2.15
- Semi-monthly (paid twice per month) income must be multiplied by 2.
- Weekly income must be multiplied by 4.3.
- Quarterly (paid once every three months) income must be divided by 3.

Assets are defined as a "resource that a person possesses or owns". The maximum value of assets an AFDC family can own is \$999.99. Assets for AFDC purposes include:

- Bonds
- Credit union savings
- Income property
- Real estate except the homestead (the home in which the family lives)
- Savings accounts
- Checking accounts
- Savings bonds
- Stocks
- Vacation homes
- Vehicles - (The first \$1500 of equity is exempt; equity is the car(s) value minus the loan amount)

Certain types of resources are exempt (not counted) from consideration:

- Inaccessible trusts (include per capita tribal payments to foster child)
- Burial plot (one per household member)
- Home of residence and surrounding acreage
- Funds for relocation (Uniform Relocation Act)
- Household furnishings and clothing
- Personal jewelry
- Farm/Business inventories/Tools used in the course of a business to produce income

E. AGE - CFS-201(Question 1)/CFS-201A(Question 5)

The child must be under the age of 18 or under the age of 19, but enrolled in a secondary school or the equivalent and expected to complete their studies by age 19.

F. CITIZENSHIP - CFS-201(Question 3)/CFS-205(Question 1)

A child must be either a United States citizen by birth or naturalization or legally admitted for permanent residence in the United States. Children who are in the U.S. under a visitor's or tourist's visa or under a student arrangement are not eligible for Title IV-E. The U.S. citizenship of the child follows that of his U.S. citizen parent(s) or is established by being born in this country.

The permanent residence can be verified by the Alien Registration Card designated as I-94. In the event of any questions or difficulties, contact the U.S. Department of Justice, Immigration and Naturalization Service, 517 East Wisconsin Avenue, Room 186, Milwaukee, Wisconsin 53202. Telephone number (414) 291-1593.

G. LUMP SUM PAYMENT

A lump sum payment is a non-recurring or advance payment not earmarked for a specific purpose.

Examples of lump sum payments are retroactive Social Security benefits, stock dividends, life insurance settlements, etc. A lump sum payment is considered as income in the month in which it is received, not as an asset.

When the lump sum payment is received, the child remains IV-E eligible but becomes non-reimbursable for the number of full months for which the out-of-home care maintenance rate is equally divisible into the lump sum payment. For any partial remaining month, the amount of the lump sum payment which remains will be treated as income for that month.

Example: Title IV-E foster child receives \$1200.00 retroactive Social Security payment. The out-of-home care maintenance rate is \$307.00. $\$1200.00 \div \$307.00 = 3$ months of non-reimbursability. The remaining \$279.00 would be budgeted as unearned income in the fourth month.

APPENDIX II

RESPONSES TO TYPICAL QUESTIONS

A. INITIAL ELIGIBILITY

1. Q: What court order is referred to on the 201 form: order for emergency custody or placement (temporary order), consent decree, temporary order, or dispositional order?

A: The 201 form refers to the date(s) a court order for placement was obtained stating the “contrary to welfare” and “reasonable efforts” language. The response to this question could be two different answers. The Order for Temporary Physical Custody (Secure or Non-secure), which usually authorizes removal from the home, **or a Dispositional Order within six months after the removal of the child, must contain the “contrary to welfare” language.** If the language is not contained in any of these court orders within six months after the removal of the child, the child can never be IV-E eligible throughout the placement episode.

The court order with a “reasonable efforts” finding can be obtained at any time during the child’s placement. This language may be found in the Order for Temporary Physical Custody (Secure or Non-secure), Dispositional Order/Delinquent, Dispositional Order/In Need of Protection or Services, or the Order to Change Placement/Revise Dispositional Order/Extend Dispositional Order. The child cannot be Title IV-E reimbursable until the “reasonable efforts” finding is obtained, so it is always recommended that this judicial determination be obtained in the court order which authorizes the removal from the home.

2. Q: We have a situation where a child came into the system through juvenile court intake and is placed into out-of-home care under a non-secure custody request. The petition was filed, but we did not obtain a formal court order within the thirty day requirement for filling out the 201/205 forms. Is the non-secure custody intake considered a court order for the purposes of determining IV-E eligibility?

A: Since the non-secure custody intake form is completed by the Intake worker, it is not considered an actual court order. The 201/205 forms should be completed upon the signing of the temporary custody court order authorizing the removal of the child, unless the temporary custody order did not have the “contrary to the welfare” or “best interest” language. In this instance, the completion of the 201 form should be pended until such language is either obtained within the first six months from the placement date or, if not obtained within six months determine the child ineligible.

3. Q: Does IV-E eligibility begin on the date of the court order or the following day, providing all other criteria are met?

A: IV-E eligibility begins on the first day of the month of the signature date of the court order, providing all other criteria are met. If the start date of the IV-E eligibility is delayed because “contrary to the welfare/best interest” language is not obtained until several months after the temporary custody order, IV-E eligibility begins on the first day of the month of the court order containing the appropriate language (see next question).

4. Q: In some situations, we have children who are placed without having “contrary to the welfare” language in the temporary physical custody order. Two months after the placement, a dispositional order is obtained which includes this language. Is this child IV-E eligible, if all other criteria are met, and on what date do we begin claiming?

A: Since the language was obtained within six months of placement, the child becomes IV-E eligible beginning on the first day of the month of the dispositional order, providing all other criteria are met.

5. Q: Frequently, we have children who are placed via a temporary physical custody order, which includes “contrary to the welfare” language, but not “reasonable efforts” language. Are we able to designate the child as IV-E eligible/not reimbursable?

A: Yes. In these situations, the child is IV-E eligible/not reimbursable. Any time a dispositional order is obtained at a later date which includes “reasonable efforts” language, the child is IV-E eligible and reimbursable, if all other criteria are met.

6. Q: If a court hearing date is not the date that the judge signs the court order, which date is used to begin eligibility/reimbursability?

A: The first day of the month of the signature date of the signed court order is used if the signature date is not the same as the date of the hearing. For the hearing date to be the effective date of eligibility, the court order must include the phrase “Nunc Pro Tunc”, or equivalent phrase, and a reference to the hearing date.

7. Q: A child was removed from his own home by a court order and placed with an aunt on 3/9/92. On 9/8/92, the placement failed and the child was placed in shelter care. On 10/27/92 (over 30 days), the child was placed in foster care based on the original court order. According to my interpretation of the 201 form, the child would not be IV-E eligible, but as I understand the philosophy of IV-E, the child should be eligible.

A: As long as the child remained in one continuous placement episode (never returned home except for trial visits), his initial eligibility was established at the time of removal on 3/9/92 and is still applicable. His reimbursability status may change depending on whether the aunt’s home is licensed but the length of time the child is placed in shelter care (more or less than 30 days) has no effect on his IV-E eligibility or reimbursability status.

8. Q: The scenario: A petition was filed 3/26/95 with the plan for the child to be placed in CCI#1. A court order followed but the child was not placed in the CCI. On 6/21/95 a second petition was filed and the court subsequently ordered the youth to Lincoln Hills, where he was placed. On 2/5/96, a third petition was filed to extend the youth's stay at Lincoln Hills and the court followed with an order. In early 1997, a fourth petition was filed to transfer custody to Outagamie County for placement at CCI #2. A court order followed and the youth was placed at CCI #2. When determining IV-E eligibility, a) which date should be used for the court order, b) which date should be used for the petition, and c) which date should be used for the child's removal?

- a) The court order that was issued following the 6/21/95 petition which resulted in the child's placement should be examined. If it contains the necessary "contrary to welfare" language, use the signature date of the court order. If the language is not in that court order, the language must be obtained in a court order within six months of placement.

b) The petition dated 6/21/95 which led to removal of the child from his home.

c) The 6/21/95 date should be used for the child's removal if that is the date the child was physically removed from his home and placed at Lincoln Hills.

9. Q: When a case has a petition date in 7/97 and a supplemental petition filed in 9/97, which month do we use as the month of petition for 205 income/asset information--the month of the original or the supplemental petition?

A: The month the petition is filed which led to the child's removal from the home should be used (7/97).

10. Q: A child is transferred from Lincoln Hills School (LHS) to a foster care placement (custody transferred to DSS). We cannot easily do a redetermination because an initial determination had not been completed when the child was placed at LHS. Would we do an initial determination? If so, what petition date would we use, the petition relating to the child's removal from the parental home and placement at LHS, or the revision of the petition which gave DSS custody of the child and allowed subsequent placement in a foster home.

A: You must reconstruct the child's circumstances at the time of removal and do an initial eligibility determination. The petition which led to the child's initial removal from the parental home should be used. In this case, it would be the petition which resulted in placement at LHS.

11. Q: A child who is in foster care is placed at Lincoln Hills School (LHS) (custody transferred to State) and, after the LHS placement, is returned to foster care (custody returned to DSS). Is it correct to do a redetermination since we had completed an initial determination earlier at the time of the first foster home placement?

A: Yes. The child's IV-E eligibility status after the LHS placement would be the same as it was prior to placement at LHS. His placement costs while in LHS are not reimbursable because it is a secure facility although he remains IV-E eligible if all other criteria are met. A redetermination should be conducted every twelve months regardless of where the child is placed and, in this instance, one should be done at the time of the DSS custody.

12. Q: If a determination is made, based on family income, that the case is not IV-E eligible, why must the agency continue the long IV-E determination process and determine the family assets, etc.?

A: If it is initially determined that the family's income exceeds allowable AFDC standards, the child will never be IV-E eligible during that placement episode and thus it is not necessary to continue with the full-scale eligibility determination process.

13. Q: If a member of the removal home is receiving SSI benefits and has other income, how is the other income treated when determining AFDC eligibility for the child?

A: Any member of the household receiving SSI benefits is not counted as being in the household, nor are their income and assets counted.

14. Q: When a child has been living with a friend or relative and is removed from that home, whose income do we consider for 205 purposes?

A: When a child has been living with a non-parent specified relative as defined in AFDC policy (brother, sister, uncle, aunt, first cousin, child of first cousin, nephew, niece, grand, great, or great-great grandparents, et. al.), only the child's income and the income of any siblings also living in the same home are considered at the time of initial eligibility determination.

If the child has been living with a non-relative, you must first determine whether he/she lived with a specified relative any time in the previous six months. If he/she did not live with a relative during that time, he/she does not meet the initial AFDC relatedness criteria and thus is not IV-E eligible. On the other hand, if the child lived with relatives during the previous six months, examine each of the homes where the child lived and consider the family's income if he/she lived with his parent(s) or consider only the child's income if he/she lived with a non-parent specified relative.

B. SSI

15. Q: When the cost of care exceeds the SSI payment the child is receiving, should we terminate the SSI payments and claim FFP if the child meets all other IV-E requirements?

A: As a general rule, if the child's SSI monthly payment is less than 59% of the monthly foster care payment or 59% of the IV-E portion of a child care institution or group home payment, you should consider suspending SSI and claim IV-E instead. There are two other factors to consider, however, before you make a decision: The anticipated length of time the child will be in care and extent of the child's disability.

16. Q: When a child in foster care is receiving SSA or SSI and this money exceeds the cost of the foster care payment, do we keep the case open? Do we establish a savings account on behalf of the child and put the remainder in it?

A: If the child's SSA or SSI payment exceeds the monthly maintenance cost, the agency, as payee, should establish a trust fund for the child and place the remainder of the benefit amount in this account. If the balance in the trust fund for a IV-E eligible child exceeds the allowable limit, the child's placement is not IV-E reimbursable until it falls below the limit. However, the child remains IV-E eligible/not reimbursable during this time.

17. Q: When a child who receives SSI benefits is placed in out-of-home care, and the monthly maintenance rate is less than the SSI payment, we use the SSI source of funding instead of IV-E. When the monthly maintenance rate escalates above the SSI payment, and other IV-E requirements are satisfied, the 201/205 instructions state to use IV-E funding. To claim IV-E reimbursement for maintenance costs, would completing a 201/205 redetermination be satisfactory or do we need to complete a new initial 201?

A: You complete an initial eligibility determination only at the time of placement. If a IV-E eligible child is placed in a higher cost facility and the county chooses to suspend the SSI payment, it is only necessary to complete a redetermination to change the IV-E status to IV-E reimbursable.

C. LEAVING OUT-OF-HOME CARE - TRIAL VISITS, RUNAWAYS

18. Q: What about a child in placement who runs away, is found, and is re-placed? Do we use the initial placement date or the re-placement date when the child is placed after the AWOL?

A: Use the initial IV-E determination and the circumstances of the child's current placement, deprivation, need, etc. on the replacement date when considering IV-E reimbursability.

19. Q: If a child in out-of-home care has his or her maintenance costs funded with IV-E and runs away, returns, but is placed in shelter care and then later returns to out-of-home care, is the placement fundable with IV-E?

A: Yes. The child would continue to be reimbursable from the time he/she returns to care after running away, as long as all other criteria are met.

20. Q: Is the concept of holding a bed open for two weeks and paying for it applicable in a case like this? That is, do we need to begin again with an initial IV-E determination process only if the youth is AWOL over two weeks.

A: No. There is no limit to the time the child is AWOL when redetermining the eligibility status of the child. Unless the child is AWOL for an extremely long period of time (at least three months), it is not necessary to establish initial eligibility again.

D. VOLUNTARY PLACEMENTS

21. Q: Regarding a IV-E eligible voluntary placement, according to the 201 form, a voluntary placement agreement may not exceed six months. (If so, the placement would become non-IV-E, irreversible.) If the voluntary agreement is due to expire and a new voluntary agreement is secured for an additional six months, could a new 201 be completed and the placement remain IV-E eligible?

A: No. Voluntary placement agreements are limited to six months by statute and federal regulation and cannot be extended or renewed. The child will automatically lose IV-E eligibility on the 181st consecutive day from the date of the voluntary placement agreement if no court order with a best interest statement is obtained.

22. Q: If a child placed under a voluntary placement agreement obtains a temporary custody order shortly after the agreement is signed, a) do we treat the child as other children brought into care under a court order and b) can we claim maintenance costs during this period?

A: a) No. The court order need not have reasonable efforts language, although contrary to the welfare/best interests language must be in this order or in another order within 180 days of the agreement.

b) Yes, the child is reimbursable as long as he or she is IV-E eligible and meets all of the reimbursability criteria (continuing legal responsibility, reimbursable facility, continuing need, deprivation) except reasonable efforts (reasonable efforts is not necessary at any time for a child who entered via a voluntary placement).

E. ADMINISTRATIVE REVIEWS

23. Q: Our county has a 16 year-old boy in foster care and the foster parents have an 880 guardianship. The county has continued to pay foster care. However, the county has missed a judicial review as it didn't appear to be needed for a guardianship case. They are also late on an administrative review. Do these circumstances affect IV-E eligibility?

A: No. The fact that a child's judicial or administrative review is overdue does not affect the child's IV-E eligibility or reimbursability. The child may continue to remain eligible for IV-E regardless of the state's compliance with Section 427 (IV-B) requirements.

F. CONTINUING LEGAL STATUS

24. Q: If an annual renewal dispositional order is late and, when executed, is not retroactive, what should we do?

A: If the county has missed a dispositional extension and there is no court order in effect, the child becomes IV-E eligible/not reimbursable until the county obtains another dispositional order continuing the county's legal responsibility for the child. If the dispositional order includes a retroactive effective date, IV-E reimbursability continues throughout the entire period.

G. DEPRIVATION

25. Q: When birth parents terminate parental rights and the child is adopted and, at a later date, enters foster care, is the child considered deprived (due to TPR) if the adoptive parents are an employed, intact family unit?

A: No. If the child is legally adopted, his adoptive parents, not his biological parents must meet one of the deprivation factors. Since the parents are an employed, intact family unit, the only other deprivation factor to consider is disability/incapacity. TPR only qualifies as a deprivation factor until the time the child is legally adopted.

26. Q: A child in foster care has unmarried parents, but the father is adjudicated and resides with the mother and the child. For purposes of deprivation, do we consider them to be married (which is the method used in income maintenance) and base any possible deprivation on unemployed parent criteria?

A: The marital status of the parents is irrelevant to the deprivation of the child. If the father is adjudicated, deprivation would only exist due to unemployment or incapacity.

27. Q: If the parents are divorced and living separately, must two 205 forms be completed?

A: No, only one form is completed. After you establish the removal home (mother or father), only the financial information of that parent (and stepparent, if applicable) is considered when establishing initial eligibility.

H. KINSHIP CARE

28. Q: A minor mother abandons her child, leaving the child with the baby's grandfather. DSS petitions for and is granted legal responsibility of the child but the child remains with the grandfather as a Kinship Care placement. Whose income/assets are used on the initial 201/205?

At the point of initial legal responsibility

The initial 201 and 205 should be completed at the time of the granting of legal responsibility since, particularly in this situation, it will be difficult to reconstruct the circumstances if the child is placed from grandfather to a regular foster care or residential placement. Since the child is not entered into the child tracking system as an out-of-home care case, a IV-E eligibility status code cannot be entered.

If the child leaves Kinship Care

If the child is later placed into a regular foster care or residential placement, utilize the initial determination information to formally complete the initial IV-E determination and complete a 201A redetermination form to document the IV-E eligibility and reimbursability of the child.

Whose income/assets are used

When considering the initial IV-E determination, if the abandonment occurred within six months of the county obtaining legal responsibility of the child, the removal of the child is considered from the mother and the mother's income and assets as well as the child's would be considered when filling out 201/205 forms. If the abandonment occurred more than six months prior to the county obtaining responsibility of the child, the child would not be IV-E eligible because there was no physical removal of the child.

29. Q: A child has been living in a Kinship Care placement for a long time (years) and there's been no foster care payments made or foster care license requested. The child is removed from the Kinship Care home and put into foster care. The Kinship Care family has no legal responsibility for the child, so we cannot consider their income/assets. Do we look only at the child's income and assets or must we attempt to get financial information on the parents? In some of these cases, the parents are not known.

A: If the agency removed the child from his/her parent's home and placed him or her in the Kinship Care home initially, IV-E eligibility must be established effective on that date. If the agency later removes the child from the relative's home and places him or her in a licensed foster home, only the child's income and assets would be considered in redetermining IV-E.

However, if IV-E was never initially established, you must reconstruct the child's circumstances at the time of removal. This would require obtaining financial information about the parents at that time. If the parents are not known, you will not be able to establish initial eligibility unless you can search historical AFDC records and/or employment history files, etc.

I. NEED - INCOME AND ASSETS

30. Q: Once a child becomes non-reimbursable due to excess assets, can the child become IV-E reimbursable again when the assets go below the limit or if assets are made unavailable to the child until age 18? (Assets are to be used for moving into independent living.)

A: Yes, the child can gain reimbursability once his or her assets fall below the allowable limit. If the assets are unavailable to the child until age 18, such as when his or her money is in an irrevocable trust, he or she would also continue to be reimbursable. However, if the child is saving money for independent living and he or she has ready access to these funds, they must be considered assets and would affect the child's reimbursability status when they exceed the allowable limit.

31. Q: If a child is over 18 (in school), in out-of-home care and working, must this child be considered responsible for contribution to support? Same situation, but child is under 18.

A: There are no federal or state requirements mandating children in foster care (regardless of age) to be responsible for contribution to support. The child's income would be considered during redetermination of need under IV-E.

J. INDEPENDENT LIVING

32. Q: When placed in court-ordered supervised independent living, does the child still remain eligible for Medical Assistance? If yes, what medical status code should we use? (33-FFP or 34-non-FFP)? According to instructions in Memo Series DCS-89-19, "children in approved independent living... are not eligible for FFP," and "state foster care funds cannot be used to fund a child in independent living."

A: The definition of supervised independent living must first be examined. If the child is living completely independently and receiving a monthly stipend from the DSS, he/she would not be IV-E reimbursable and his/her eligibility for Medical Assistance would have to be determined on an individual basis. However, if the child is placed in a licensed facility or foster home and is being "supervised" by that licensed provider, he/she may be IV-E and Medical Assistance eligible if all other criteria are met.

APPENDIX III

SAMPLES OF CONTRARY TO THE WELFARE LANGUAGE

A court order within six months of placement must contain language to the effect that “continuation in the home is contrary to the welfare of the child” or “placement is in the best interest of the child”, or words to this effect. Other phrases which are acceptable include:

- The child is without proper care, custody, or support and immediate protective custody is necessary to prevent personal harm to the child.
- The removal of the home is/was necessary to protect the child.
- The child is being neglected and is without proper care and supervision.
- The parents or other person exercising custodial control are unable or unwilling to protect the child.
- There are reasonable grounds to believe that the child’s condition (or the circumstances surrounding his care) requires that his custody be immediately assumed to safeguard his welfare.
- There is a strong possibility that the child may do something that is injurious to himself prior to the court disposition.
- The child will commit or attempt to commit other offenses injurious to herself or to the community before the court disposition.
- The child’s continued residence in his home, pending disposition, will not safeguard the best interests of the child or the community because of the serious and dangerous nature of the act(s) the child is alleged to have committed.
- The child is in need of placement services or “the Child is a Danger to the Public and in Need of Restrictive Custodial Treatment”
- The child is in immediate danger of imminent serious physical injury or sexual abuse.